

Statement of
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American Association of Museums
On Nazi-Era Art Assets
As They Relate to Museums
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Chairman Pryce, Representative Maloney, and members of the subcommittee, I am Edward H. Able, Jr., the President and CEO of American Association of Museums. I am pleased to have the opportunity to appear before you to talk about the actions museums have taken to determine how to pursue the cleansing of our collections of any objects looted by the Nazis without subsequent restitution, to create and use tools and training to do the provenance research needed, to do that research, and to get the results of the research out to the public, including possible claimants of those objects.

The American Association of Museums (AAM), headquartered in Washington D.C., is the national service organization that represents and addresses the needs of museums to enhance their ability to serve the public. AAM establishes and disseminates information on current standards and best practices and provides professional development for museum professionals to ensure that museums have the capacity to contribute to life-long education in its broadest sense and to protect and preserve our shared cultural heritage. Since its founding in 1906, AAM has grown to more than 20,000 members across the United States – including over 16,500 individual members and more than 3,100 museums and other cultural organizations.

Background

As you know, from 1933-45, the Nazi regime looted art objects and other cultural property throughout Europe for a variety of purposes. Because of the complexity of this subject, I am providing, as an attachment to this testimony and for the record, a more detailed account entitled “U.S. Museums and the Nazi-Era Assets Issue” which we provided to the media when we opened the Nazi-Era Provenance Internet Portal in

September 2003. The following is a very brief summary of some of the key facts from that account.

Following World War II, the allies successfully returned large numbers of looted art objects to the countries of origin. Those countries were then tasked with getting the looted objects to the proper owners. Difficulties in finding the proper owners and in tracing art through the international market complicated that second step in the return process. And what of the works that had already entered the international art market through Nazi-era auctions or the work of Nazi-collaborating dealers?

These are the difficulties that challenge today's researchers of provenance, the history of ownership of works of art. In the mid-1990s, new information made available from the archives of former Eastern Bloc countries after the fall of the Soviet Union and other discoveries made it possible for more of those whose families had had assets appropriated by the Nazis to make claims for the return of those assets. Over the past decade, museums, too, have become more aware of Nazi looting and its possible implications for their collections.

Three cases in 1997 involving museums confirmed the need for museums to have further guidance, standards and best practices in this area. Within nine months in 1998, congressional hearings were held (House Banking and Financial Services Committee, February 12, 1998), a presidential commission was formed (Presidential Advisory Commission on Holocaust Assets in the United States--PCHA), and the Department of State hosted an international conference on Holocaust assets.

In each case, the museum community was present, helping to inform the government of efforts by museums to research and publicize the Nazi-era provenance of objects in their collections and to develop new guidelines, standards, and practices to aid in the resolution of Nazi-era cultural assets issues. And during that year, a task force of the Association of Art Museum Directors (AAMD) was drafting guidance for its members that was published in June 1998. AAM also aggressively addressed the issue in 1998 and released more extensive AAM Guidelines in this area in November 1999. Both called on museums to make public information about objects with incomplete or uncertain Nazi-era provenance. I will discuss AAM's guidelines in more detail below.

During 2000, as museums implemented these guidelines and began to publish their research into provenance on websites, it became clear that there were differences of opinion about what constituted incomplete or uncertain provenance. Congress held additional hearings on Nazi-era assets (House Banking and Financial Services Committee, February 9-10, 2000, and Senate Foreign Relations Committee, April 5, 2000), and the presidential commission (PCHA) weighed a new disclosure standard. Working closely with AAM and AAMD, the PCHA defined, in its January 2001 final report, this new standard as *all* objects acquired by a museum after 1932, created before 1946, that underwent a change of ownership between 1932 and 1946, and that either were or might reasonably be thought to have been in continental Europe between 1932-1946, *regardless of completeness of provenance*. AAM supported these criteria and amended our guidelines to this effect in April 2001, and this standard remains the standard for American museums.

An AAM task force also developed and published (May 2001) procedures for making Nazi-era provenance information available to the public, recommending that museums provide 20 pieces of information for objects covered in the standard above, and that a single, central, searchable gateway for this information be created. That gateway is the Nazi-Era Provenance Internet Portal, which I discuss below.

Key Actions That Museums Knew They Must Take.

With that as background, I want to focus on four key actions that museums knew, from at least 1997, they needed to take, and what the museum community has done to that effect. Those actions are:

- I. Establishing guidelines for pursuing the cleansing of our collections of any objects looted by the Nazis without subsequent restitution.
- II. Providing the tools and training to museums to do the necessary provenance research.
- III. Conducting the research.
- IV. Getting the research out to the public, including the claimant community.

Let me address each of those in turn.

I. ESTABLISHING GUIDELINES

By 1998, it was clear that museums needed a better consensus and more clarity about what they should do if they held objects with uncertain or incomplete Nazi-era provenance. By November 1999, AAM's *Guidelines Concerning the Unlawful Appropriation of Objects during the Nazi Era* were published, and, as amended in April 2001, and with AAMD's *Report* of June 1998, they represent the standards under which the museum community operates in this area. I am attaching a copy of the full *Guidelines* for the record. Here are some key highlights from those *Guidelines*:

A. General Principles

- i. If there is a possibility that the museum is holding an unlawfully appropriated Nazi-era object, it has a paramount responsibility to practice ethical stewardship.
- ii. Museums should strive to identify all "covered objects" in their collections, make object and provenance information accessible, and give priority to continuing provenance research as resources allow.
- iii. Museums are encouraged to expand online access to collection information that could aid in the discovery of unlawfully appropriated Nazi-era objects that were not restituted.

- iv. AAM supports efforts to make archives and other resources more accessible for these purposes.
- v. Museums should strive for a climate of cooperation, reconciliation and commonality of purpose where competing interests may arise.
- vi. These guidelines should not be interpreted to place an undue burden on the ability of museums to achieve their missions of public education through their collections.

B. Acquisitions

- i. "It is the position of AAM that museums should take all reasonable steps to resolve the Nazi-era provenance status of objects before acquiring them for their collections."
- ii. Among those steps are requesting donors or sellers to share their provenance information, considering additional research where provenance for a covered object is incomplete or uncertain, proceeding with acquisition where there is no evidence of unlawful appropriation without restitution, notifying the seller or donor where there is such evidence, under certain circumstances acquiring an object where such acquisition may facilitate further resolution of the object's status, documenting the provenance research, and publishing or displaying recent gifts so as to facilitate further public examination.

C. Loans

- i. "It is the position of AAM that in their role as temporary custodians of objects on loan, museums should be aware of their ethical responsibility to consider the status of material they borrow as well as the possibility of claims being brought against a loaned object in their custody."
- ii. The steps here are largely similar to those for acquisitions, except that in the case of uncovering credible evidence of unlawful appropriation without subsequent restitution, the borrowing museum is to notify the lender museum of the evidence and not proceed with the loan until further action to clarify these issues.

D. Existing collections

- i. "It is the position of AAM that museums should make serious efforts to allocate time and funding to conduct research on covered objects in their collections where provenance is incomplete or uncertain...museums should establish priorities, taking into consideration available resources."
- ii. Here the chief steps are to identify covered objects and make object and provenance information public, identify those objects that seem to need more research, search their own records and those of others as needed, incorporate Nazi-era research in their collections research, seek funding for Nazi-era research when seeking exhibition funding, and document their research.

If museums discover credible evidence of unlawfully appropriated objects, they are to make their information public and, if possible, notify potential claimants. If no valid claim is made, the museum may hold the object but should acknowledge its history on labels and publications.

E. Claims of ownership

- i. "It is the position of AAM that museums should address claims of ownership asserted in connection with objects in their custody openly, seriously, responsively, and with respect for the dignity of all parties involved."
- ii. Here a museum should thoroughly and promptly review a claim, conduct its own research, and ask for the claimant's research. If the object is in the museum's collection and there is credible evidence of unlawful appropriation without restitution, the museum should seek to resolve the matter with the claimant; if the object is on loan, the museum should promptly notify the lender.

F. Fiduciary Obligations

- i. "Museums affirm that they hold their collections in the public trust when undertaking the activities listed above. Their stewardship duties and their responsibilities to the public they serve require that any decision to acquire, borrow, or dispose of objects be taken only after the completion of appropriate steps and careful consideration."
- ii. Museums here should develop appropriate policies and practices in this area and be prepared to respond promptly to public and media inquiries.

G. Commitment of AAM. AAM allocates resources to disseminate these guidelines widely, track the activity of relevant databases, collect examples of best practices, make the above information available, assist in the development of recommended procedures for disclosure, provide electronic links for provenance research, and encourage funding for Nazi-era provenance research.

II. **PROVIDING TOOLS AND TRAINING**

With clear Guidelines in place, the next step was equipping the museum community to implement the guidance given.

This was no small task. As one expert provenance researcher has noted, Nazi-era provenance research is interdisciplinary. It requires knowledge of art history, the history of collecting, and the locations of archival materials that document the movement of art. The prospective researcher must then immerse him- or herself in military history, modern German history, the structure of the Nazi bureaucracy, and other unfamiliar fields. In the late 1990s there were very few individuals who possessed all these

necessary skills. There was no army of qualified researchers at the ready waiting to be hired, and a massive learning curve awaited anyone assigned to unravel the histories of art objects in the Nazi Era.

Accordingly AAM began developing the resources needed to train museum staff and outside researchers to undertake this specialized work. First, AAM commissioned three of the world's leading experts in Nazi-era provenance research to write a state-of-the-art "how to" manual. Published in June 2001, this 300-page *AAM Guide to Provenance Research* immediately became the standard reference for a new generation of provenance researchers. Covering everything from the history of Nazi looting to detailed descriptions of the key archival sources and how to use them, and including a number of specific case studies, this book is the "Bible" of the field. In the same year, AAM also published the 100-page *Museum Policy and Procedures for Nazi-Era Issues*, designed to help museums implement the Guidelines by providing examples of policy and practices from museums that have integrated the guidelines concepts in their working documents.

AAM also embarked on a multi-year program of hands-on training. In the fall of 2001 and again in 2003, AAM organized and hosted Nazi-Era Provenance Research Seminars at the National Archives and Records Administration Archives II facility in College Park, MD. At these seminars, over 78 researchers from 60 museums, auction houses, and independent organizations underwent two days of intensive training in Nazi-era provenance research, including hands-on work with the key document collections from the Nazi regime and the postwar Allied occupation. Other provenance research training sessions were held at each AAM Annual Meeting from 2001 through 2006. These training sessions and annual update sessions ensure that word of new archival sources, new techniques, and best practices circulate quickly throughout the entire field.

In December 2004, AAM hosted the first International Provenance Research Colloquium in Washington DC. Bringing together experts from throughout Europe as well as the United States, the seminar exposed American researchers to even more, new archival sources and case studies. Findings from the seminar were published earlier this year as *Vitalizing Memory: International Perspectives on Provenance Research*, which placed these new techniques in the hands of the entire field.

Finally, in 2004 AAM launched PROVENANCE-LIST, an Internet discussion forum for professional provenance researchers for museums designed to help them resolve questions relating to museum holdings. The list had 67 subscribers as of July 2006, and members are posting and responding to 3 to 5 detailed provenance research inquiries each month. Through this list, experts throughout the field can pool their knowledge and experience in real time to solve intractable museum-related research problems. The list is of particular importance to researchers at small and middle-sized museums, who may not have the financial resources to attend some of the national training sessions, for it allows them to pose questions directly to experts who work for the largest museums and galleries.

III. CONDUCTING THE RESEARCH

Equipped with Guidelines setting out what to do, and tools and training on how to do it, museums have been systematically investigating the ownership history of objects in their collections.

In tackling provenance research, museums have learned that there is no “one-size-fits-all” solution. Hiring new staff or outside consultants are two ways museums have met the need to research the Nazi-era ownership history of objects in the collections. Other museums have found that training current staff, already knowledgeable about their collection and records, is more efficient in their situation. Some museums have divided the work between several staff members, since the various steps in researching a collection require different skill sets.

Whether conducted in-house or done by outside experts, provenance research continues to require a substantial commitment of museums’ limited resources. General provenance research for objects with no prior indication of Nazi looting costs anywhere from \$40 to \$60 per hour. Each object’s ownership history is unique, and the time necessary to document a provenance for even one object can vary enormously. One prominent researcher notes that documenting a painting of a well-known European artist with substantial published literature may take a qualified researcher as little as a week. Documenting a provenance for a minor artist with limited published literature might take a month. For a work with a particularly opaque history of sales and transfers, the research can take months or years, and involve trips to archives in both the United States and Europe.

Moreover, these estimates are for ordinary objects that turn out to have no history of Nazi looting. When the initial research does suggest the possibility of such looting, requiring that specialist World War II-era archives be consulted, the time required and the total expense can double or triple. One museum spent \$20,000 plus travel and expenses over the course of two years to have a professional researcher resolve the history of just three paintings.

IV. SHARING RESULTS WITH THE PUBLIC

Parallel with this program of training, AAM moved to fulfill the museum community’s commitment made to the Presidential Advisory Commission on Holocaust Assets in the United States to create a searchable, online database for releasing collections information to the public and sharing the results of provenance research.

In 2002, AAM proposed to the federal Institute of Museum and Library Services that AAM build and manage the central online registry called for in the PCHA agreement. IMLS and a coalition of private foundations representing the fine arts community and the claimant community agreed to fund the project, called the Nazi-Era Provenance Internet Portal. This Portal would provide an online, searchable registry of objects in US museum collections that may have changed hands anywhere in Continental Europe under any circumstances between 1932 and 1946.

After a rapid design and development phase, the Portal opened to museums to enter data in April 2003 and to the public for research in September 2003. The launch of the Portal received broad coverage in the national and international press, helping to ensure that claimants and other members of the public were aware of its availability as a resource.

Now in its third year, the Portal continues to fulfill its mission of giving people seeking lost objects a “one-stop shop” to check whether the object they are seeking might be located in a US museum. The Portal now includes over 150 participating museums, which together have registered more than 18,000 objects in their collections that may have changed hands in Continental Europe between 1932 and 1946. New objects and new participating museums continue to be added every month.

It is important to note that the objects listed on the Portal are those that conform to the comprehensive and objective definition recommended by claimants’ advocates and endorsed by the PCHA: that is, *any* object that may have changed hands in Continental Europe between 1932 and 1946 *under any circumstances*. This means the Portal includes:

- Objects whose complete ownership history is known and without gaps, but whose history includes one or more sales in Continental Europe between 1932 and 1946;
- Objects with gaps in their ownership history between 1932 and 1946 (recalling that a gap in provenance does not equate to evidence of looting – there are many reasons for incomplete ownership histories);
- Objects known to have been looted by the Nazis, successfully restituted to their rightful owners after World War II, and then transferred legitimately; and
- Objects that are not uniquely identifiable, such as prints, decorative arts, and photographs.

Finding an object on the Portal simply means that the object was in Continental Europe between 1932 and 1945 and may have changed hands one or more times.

Since it opened to the public, the Portal has run over 100,000 searches for missing objects, and is still routinely running 60 to 80 searches a day, week in and week out. Potential claimants who find an object similar to the one they are seeking can contact the museum in whose collection the object is located, review online or request detailed provenance records, and, based on the results of the inquiry, quickly eliminate the object as a potential match or flag it as being worthy of close and detailed investigation. The Portal is available around the clock for public use at <http://www.nepip.org/>

V. SCOPE OF THE ISSUE

One of the most frequently asked questions is “how many **potentially** looted objects are located in US museums?” Unfortunately, this is also one of the hardest questions to answer. Prior to the 1970s the entire art trade was conducted on a centuries-old tradition of handshake deals. Little systematic attention was paid to recording and

documenting provenance as part of title. As a result, when you look at the ownership histories of objects in US museums, you will still find gaps in provenance.

That said, after several years of intensive activity, we can state with some confidence that the general answer is “not many”—probably on the order of scores rather than hundreds or thousands in the entire United States.

It has been nearly eight years since museums began to scrutinize their collections for Nazi-era gaps in provenance. It has been nearly three years since museums began centrally to release collections information by registering objects in the Nazi-Era Provenance Internet Portal. In that period, there have been a total of 22 public settlements concerning Nazi-era looting claims for works of art found in American art museums (some of which involve works on loan to a museum or works the museum was researching prior to purchase). There are also 6 additional Nazi-era looting claims involving American art museums that have been publicly announced but not yet finally resolved.

Adding the roughly 6 pending claims to the 22 settlements already reached equals a total of about 30 instances in which serious questions have been raised in connection with potential Nazi-era looting of works of art now located in US art museums —this after eight years of intensive scrutiny of collections and huge and ongoing strides in transparency.

Even one looted object is too many, and museums remain committed to doing the work necessary to clarify the Nazi-era ownership history of every object in their collections and sharing the results with the public. However, given the systematic scrutiny the major US collections have already undergone, and the increasing accessibility of information from smaller and mid-sized museums through the Nazi-Era Provenance Internet Portal, it seems very unlikely that any large troves of looted objects remain to be found. The remaining cases will come one by one, as the result of the patient work of researchers in museums and the claimant community pooling resources and information and working together to close the remaining gaps.

Conclusion

As soon as museums became aware that new information about Nazi-era objects had changed the landscape, they moved promptly to clarify what the museum community should do, to put the right tools and training into the hands of museum professionals, to do the necessary provenance research, and to make the results of that research available to potential claimants and the public. We were happy to agree with the Presidential Commission to disclose *every* work in our collections that might have been in Europe in the Nazi era and may have changed hands *even if it had complete and unimpeachable provenance*, because this rightly allows everyone to make his or her own judgment.

It is worth noting again, however, that the costs of doing this research are not insignificant even in easy-to-resolve cases and can involve tens of thousands of dollars in the case of a single object. AAM's Guidelines try to strike a balance between the

moral urgency of resolving every one of these cases promptly and fairly and the reality on the ground of limited resources and the museum's primary mission to educate. Those resource problems tend to be more serious for mid- to small-sized institutions. While aware of current budget constraints, AAM encourages Congress to consider allocating additional grant funding for museums, aimed at provenance research, to add to the funds of their own that museums are already using, so the research can proceed more quickly. The Institute of Museum and Library Services is the principal means by which the federal government provides grants for museum activities.

In our view, the evidence of American museum actions to resolve claims promptly and fairly as they arise speaks well for the museum community. It is the position of AAM that museums should address claims of ownership asserted in connection with objects in their custody openly, seriously, responsively, and with respect for the dignity of all parties involved. Each claim should be considered on its own merits. AAM acknowledges that museums may elect to waive available legal defenses, and the record shows that this is exactly what museums have done and continue to do when presented with meritorious claims. We strongly feel that direct, respectful engagement between museums and claimants leads to the most rapid settlement of meritorious claims with the least cost to both parties, and can think of no alternate system that would improve upon it.

In conclusion, museums have sought to make good faith efforts to be transparent about what we know and what we are doing, and to be accessible to claimants and members of the public who may have questions in this area. The results of those efforts continue to be fruitful for museums, claimants, and the general public.

**AMERICAN ASSOCIATION OF MUSEUMS GUIDELINES CONCERNING
THE UNLAWFUL APPROPRIATION OF OBJECTS DURING THE NAZI ERA**

Issued by AAM, November 1999 and amended April 2001

Introduction

From the time it came into power in 1933 through the end of World War II in 1945, the Nazi regime orchestrated a system of theft, confiscation, coercive transfer, looting, pillage, and destruction of objects of art and other cultural property in Europe on a massive and unprecedented scale. Millions of such objects were unlawfully and often forcibly taken from their rightful owners, who included private citizens, victims of the Holocaust; public and private museums and galleries; and religious, educational, and other institutions.

In recent years, public awareness of the extent and significance of Nazi looting of cultural property has grown significantly. The American museum community, the American Association of Museums (AAM), and the U.S. National Committee of the International Council of Museums (AAM/ICOM) are committed to continually identifying and implementing the highest standard of legal and ethical practices. AAM recognizes that the atrocities of the Nazi era demand that it specifically address this topic in an effort to guide American museums as they strive to achieve excellence in ethical museum practice.

The AAM Board of Directors and the AAM/ICOM Board formed a joint working group in January 1999 to study issues of cultural property and to make recommendations to the boards for action. The report that resulted from the initial meeting of the Joint Working Group on Cultural Property included the recommendation that AAM and AAM/ICOM offer guidance to assist museums in addressing the problems of objects that were unlawfully appropriated during the Nazi era without subsequent restitution (i.e., return of the object or payment of compensation to the object's original owner or legal successor).

The efforts of the Working Group were greatly informed by the important work on the topic that had gone before. In particular, three documents served as a starting point for the AAM guidelines, and portions of them have been incorporated into this document. These include: Report of the AAMD Task Force on the Spoliation of Art during the Nazi/World War II Era (1933-1945); ICOM Recommendations Concerning the Return of Works of Art Belonging to Jewish Owners; and Washington Conference Principles on Nazi-Appropriated Art released in connection with the Washington Conference on Holocaust-Era Assets co-hosted by the U.S. Department of State and the United States Holocaust Memorial Museum.

The Presidential Advisory Commission on Holocaust Assets in the United States (PCHA) was created in June 1998 to study and report to the president on issues relating to Holocaust victims' assets in the United States. AAM and the Association of Art Museum Directors (AAMD) worked with the PCHA to establish a standard for disclosure of collections information to aid in the identification and discovery of unlawfully appropriated objects that may be in the custody of museums. In January 2001, the PCHA issued its final report, which incorporated the agreed standard for disclosure and recommended the creation of a searchable central registry of the information museums disclose in accordance with the new standard. AAM and AAMD agreed to support this recommendation, and these guidelines have been amended to reflect the agreed standard for disclosure of information.

Finally, AAM and AAM/ICOM acknowledge the tremendous efforts that were made by the Allied forces and governments following World War II to return objects to their countries of origin and to original owners. Much of the cultural property that was unlawfully appropriated was recovered and returned, or owners received compensation. AAM and AAM/ICOM take pride in the fact that members of the

American museum community are widely recognized to have been instrumental in the success of the post-war restitution effort. Today, the responsibility of the museum community is to strive to identify any material for which restitution was never made.

General Principles

AAM, AAM/ICOM, and the American museum community are committed to continually identifying and achieving the highest standard of legal and ethical collections stewardship practices. The AAM Code of Ethics for Museums states that the "stewardship of collections entails the highest public trust and carries with it the presumption of rightful ownership, permanence, care, documentation, accessibility, and responsible disposal."

When faced with the possibility that an object in a museum's custody might have been unlawfully appropriated as part of the abhorrent practices of the Nazi regime, the museum's responsibility to practice ethical stewardship is paramount. Museums should develop and implement policies and practices that address this issue in accordance with these guidelines.

These guidelines are intended to assist museums in addressing issues relating to objects that may have been unlawfully appropriated during the Nazi era (1933-1945) as a result of actions in furtherance of the Holocaust or that were taken by the Nazis or their collaborators. For the purposes of these guidelines, objects that were acquired through theft, confiscation, coercive transfer, or other methods of wrongful expropriation may be considered to have been unlawfully appropriated, depending on the specific circumstances.

In order to aid in the identification and discovery of unlawfully appropriated objects that may be in the custody of museums, the PCHA, AAMD, and AAM have agreed that museums should strive to: (1) identify all objects in their collections that were created before 1946 and acquired by the museum after 1932, that underwent a change of ownership between 1932 and 1946, and that were or might reasonably be thought to have been in continental Europe between those dates (hereafter, "covered objects"); (2) make currently available object and provenance (history of ownership) information on those objects accessible; and (3) give priority to continuing provenance research as resources allow. AAM, AAMD, and PCHA also agreed that the initial focus of research should be European paintings and Judaica.

Because of the Internet's global accessibility, museums are encouraged to expand online access to collection information that could aid in the discovery of objects unlawfully appropriated during the Nazi era without subsequent restitution.

AAM and AAM/ICOM acknowledge that during World War II and the years following the end of the war, much of the information needed to establish provenance and prove ownership was dispersed or lost. In determining whether an object may have been unlawfully appropriated without restitution, reasonable consideration should be given to gaps or ambiguities in provenance in light of the passage of time and the circumstances of the Holocaust era. AAM and AAM/ICOM support efforts to make archives and other resources more accessible and to establish databases that help track and organize information.

AAM urges museums to handle questions of provenance on a case-by-case basis in light of the complexity of this problem. Museums should work to produce information that will help to clarify the status of objects with an uncertain Nazi-era provenance. Where competing interests may arise, museums should strive to foster a climate of cooperation, reconciliation, and commonality of purpose.

AAM affirms that museums act in the public interest when acquiring, exhibiting, and studying objects. These guidelines are intended to facilitate the desire and ability of museums to act ethically and lawfully

as stewards of the objects in their care, and should not be interpreted to place an undue burden on the ability of museums to achieve their missions.

Guidelines

1. Acquisitions

It is the position of AAM that museums should take all reasonable steps to resolve the Nazi-era provenance status of objects before acquiring them for their collections - whether by purchase, gift, bequest, or exchange.

- a) Standard research on objects being considered for acquisition should include a request that the sellers, donors, or estate executors offering an object provide as much provenance information as they have available, with particular regard to the Nazi era.
- b) Where the Nazi-era provenance is incomplete or uncertain for a proposed acquisition, the museum should consider what additional research would be prudent or necessary to resolve the Nazi-era provenance status of the object before acquiring it. Such research may involve consulting appropriate sources of information, including available records and outside databases that track information concerning unlawfully appropriated objects.
- c) In the absence of evidence of unlawful appropriation without subsequent restitution, the museum may proceed with the acquisition. Currently available object and provenance information about any covered object should be made public as soon as practicable after the acquisition.
- d) If credible evidence of unlawful appropriation without subsequent restitution is discovered, the museum should notify the donor, seller, or estate executor of the nature of the evidence and should not proceed with acquisition of the object until taking further action to resolve these issues. Depending on the circumstances of the particular case, prudent or necessary actions may include consulting with qualified legal counsel and notifying other interested parties of the museum's findings.
- e) AAM acknowledges that under certain circumstances acquisition of objects with uncertain provenance may reveal further information about the object and may facilitate the possible resolution of its status. In such circumstances, the museum may choose to proceed with the acquisition after determining that it would be lawful, appropriate, and prudent and provided that currently available object and provenance information is made public as soon as practicable after the acquisition.
- f) Museums should document their research into the Nazi-era provenance of acquisitions.
- g) Consistent with current practice in the museum field, museums should publish, display, or otherwise make accessible recent gifts, bequests, and purchases, thereby making all acquisitions available for further research, examination, and public review and accountability.

2. Loans

It is the position of AAM that in their role as temporary custodians of objects on loan, museums should be aware of their ethical responsibility to consider the status of material they borrow as well as the possibility of claims being brought against a loaned object in their custody.

a) Standard research on objects being considered for incoming loan should include a request that lenders provide as much provenance information as they have available, with particular regard to the Nazi era.

b) Where the Nazi-era provenance is incomplete or uncertain for a proposed loan, the museum should consider what additional research would be prudent or necessary to resolve the Nazi-era provenance status of the object before borrowing it.

c) In the absence of evidence of unlawful appropriation without subsequent restitution, the museum may proceed with the loan.

d) If credible evidence of unlawful appropriation without subsequent restitution is discovered, the museum should notify the lender of the nature of the evidence and should not proceed with the loan until taking further action to clarify these issues. Depending on the circumstances of the particular case, prudent or necessary actions may include consulting with qualified legal counsel and notifying other interested parties of the museum's findings.

e) AAM acknowledges that in certain circumstances public exhibition of objects with uncertain provenance may reveal further information about the object and may facilitate the resolution of its status. In such circumstances, the museum may choose to proceed with the loan after determining that it would be lawful and prudent and provided that the available provenance about the object is made public.

f) Museums should document their research into the Nazi-era provenance of loans.

3. Existing Collections

It is the position of AAM that museums should make serious efforts to allocate time and funding to conduct research on covered objects in their collections whose provenance is incomplete or uncertain. Recognizing that resources available for the often lengthy and arduous process of provenance research are limited, museums should establish priorities, taking into consideration available resources and the nature of their collections.

Research

a) Museums should identify covered objects in their collections and make public currently available object and provenance information.

b) Museums should review the covered objects in their collections to identify those whose characteristics or provenance suggest that research be conducted to determine whether they may have been unlawfully appropriated during the Nazi era without subsequent restitution.

c) In undertaking provenance research, museums should search their own records thoroughly and, when necessary, contact established archives, databases, art dealers, auction houses, donors, scholars, and researchers who may be able to provide Nazi-era provenance information.

d) Museums should incorporate Nazi-era provenance research into their standard research on collections.

e) When seeking funds for applicable exhibition or public programs research, museums are encouraged to incorporate Nazi-era provenance research into their proposals. Depending on their particular circumstances, museums are also encouraged to pursue special funding to undertake Nazi-era provenance research.

f) Museums should document their research into the Nazi-era provenance of objects in their collections.

Discovery of Evidence of Unlawfully Appropriated Objects

g) If credible evidence of unlawful appropriation without subsequent restitution is discovered through research, the museum should take prudent and necessary steps to resolve the status of the object, in consultation with qualified legal counsel. Such steps should include making such information public and, if possible, notifying potential claimants.

h) In the event that conclusive evidence of unlawful appropriation without subsequent restitution is found but no valid claim of ownership is made, the museum should take prudent and necessary steps to address the situation, in consultation with qualified legal counsel. These steps may include retaining the object in the collection or otherwise disposing of it.

i) AAM acknowledges that retaining an unclaimed object that may have been unlawfully appropriated without subsequent restitution allows a museum to continue to care for, research, and exhibit the object for the benefit of the widest possible audience and provides the opportunity to inform the public about the object's history. If the museum retains such an object in its collection, it should acknowledge the object's history on labels and publications.

4. Claims of Ownership

It is the position of AAM that museums should address claims of ownership asserted in connection with objects in their custody openly, seriously, responsively, and with respect for the dignity of all parties involved. Each claim should be considered on its own merits.

a) Museums should review promptly and thoroughly a claim that an object in its collection was unlawfully appropriated during the Nazi era without subsequent restitution.

b) In addition to conducting their own research, museums should request evidence of ownership from the claimant in order to assist in determining the provenance of the object.

c) If a museum determines that an object in its collection was unlawfully appropriated during the Nazi era without subsequent restitution, the museum should seek to resolve the matter with the claimant in an equitable, appropriate, and mutually agreeable manner.

d) If a museum receives a claim that a borrowed object in its custody was unlawfully appropriated without subsequent restitution, it should promptly notify the lender and should comply with its legal obligations as temporary custodian of the object in consultation with qualified legal counsel.

e) When appropriate and reasonably practical, museums should seek methods other than litigation (such as mediation) to resolve claims that an object was unlawfully appropriated during the Nazi era without subsequent restitution.

f) AAM acknowledges that in order to achieve an equitable and appropriate resolution of claims, museums may elect to waive certain available defenses.

5. Fiduciary Obligations

Museums affirm that they hold their collections in the public trust when undertaking the activities listed above. Their stewardship duties and their responsibilities to the public they serve require that any

decision to acquire, borrow, or dispose of objects be taken only after the completion of appropriate steps and careful consideration.

a) Toward this end, museums should develop policies and practices to address the issues discussed in these guidelines.

b) Museums should be prepared to respond appropriately and promptly to public and media inquiries.

Commitment of AAM

As part of its commitment to identifying and disseminating best practices, AAM will allocate resources:

a) to disseminate these guidelines widely and frequently along with references to other guidelines, principles, and statements that exist on the topic

b) to track the activity and purpose of the relevant databases and other resources and to compile bibliographies for dissemination to the United States museum community

c) to collect examples of best practices and policies on Nazi-era provenance research and claims resolution from the museum field, both in the United States and abroad, as guidelines for other museums

d) to make the above information available to the museum community through reports, conference sessions, and other appropriate mechanisms

e) to assist in the development of recommended procedures for object and provenance information disclosure

f) to provide electronic links from AAM's Web site to other resources for provenance research and investigate the feasibility of developing an Internet tool to allow researchers easier access to object and provenance information about covered objects in museum collections.

g) to encourage funding of Nazi-era provenance research.

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U.S. Museums and the Nazi-Era Assets Issue

From the time it came into power in Germany in 1933 through the end of World War II in 1945, the Nazi regime orchestrated a program of theft, confiscation, coercive transfer, looting, pillage, and destruction of objects of art and other cultural property in Europe on a massive and unprecedented scale. Some objects were sold to fund Nazi activities, while others were intended for the private collections of high-ranking officials or the museum Adolph Hitler planned to build in Linz, Austria. As the war drew to a close, the Nazis spirited many of these objects to hidden repositories throughout lower Austria and Germany.

Following the war, the Monuments, Fine Arts and Archives program of the Occupation Government of Germany undertook to collect, document, and return art looted by the Nazis that had been discovered in these hidden repositories. Art was returned to its country of origin; it was then incumbent on individual countries to complete the restitution process by returning the objects to original owners or their legal successors.

These noble efforts succeeded in processing huge numbers of works stolen by the Nazis. But once these objects were returned to their countries of origin, their fate became less certain. Many owners or heirs were impossible to find because so many families had perished during the Holocaust. And what of the works that had already entered the international art market through Nazi-era auctions or the work of Nazi-collaborating dealers? These are the difficulties that challenge today's provenance researchers.

The last decade has seen a growing awareness of the extent and significance of Nazi looting of cultural property. Many factors have contributed to this awareness, including the opening of archives following the reunification of Germany and the dissolution of the Soviet Union as well as the declassification of World War II documents in the United States. The discovery that Swiss banks were holding gold from Nazi victims caused attention to be focused on other asset categories such as insurance policies and cultural property. Lynn H. Nicholas's *The Rape of Europa* (1994), gave the subject a popular profile, and a conference organized by Bard Graduate Center for Studies in the Decorative Arts in 1995, called *The Spoils of War*, brought interested parties together for the first time to address the topic in a public forum. The 50th anniversary of the World War II Armistice in 1995 also renewed attention to the events of the war.

In the past ten years museums, too, have become more aware of Nazi looting, and its possible implications for their collections. Increasingly, museums recognized that objects unlawfully appropriated during the Nazi era without subsequent restitution - neither return of the object nor payment of compensation to the object's original owner or legal successor - had entered the international art market and may have made their way into museum collections. Then, in 1997, three cases firmly positioned this issue on the agenda of the art museum community.

The Art Institute of Chicago (AIC) was drawn into a case involving a pastel by Edgar Degas purchased from a dealer in 1987 by a trustee at the recommendation of an AIC curator. The work was claimed by a Dutch family, and AIC helped broker a half-purchase/half-donation arrangement in which the heirs received compensation and the museum received the work of art. In response to a claim for a Matisse painting in its collection, the Seattle Art Museum returned the object to the heirs of the original owner, then reached a settlement with the dealer from whom their donor had purchased the painting. Also, the Museum of Modern Art in New York received claims for two paintings by Egon Schiele on loan from the Leopold Foundation in Austria. While the museum wished to honor its contract with the lender and return the paintings to Austria, where the claim could be taken up with the actual owners, it has been able to return only one painting; the other remains, as of this writing, tied up in federal forfeiture proceedings. These cases illustrated the complexity of Nazi-era issues and confirmed that this topic had to be addressed by the museum community. Consequently, they have served as catalysts for the development of related guidance, standards, and best practices for the museum profession.

With increased press and public attention, the federal government shifted focus from gold to cultural assets. Within nine months in 1998, congressional hearings were held, a presidential commission was formed, and the Department of State hosted an international conference on the subject of Holocaust-era assets. In each case, the museum community was present, helping to inform the government of efforts by museums to research and publicize the Nazi-era provenance of objects in their collections and to develop new guidelines, standards, and practices to aid in the resolution of Nazi-era cultural assets issues. Indeed, throughout that same year, the Association of Art Museum Directors (AAMD) task force—partially comprised of the museum directors who had testified before Congress—drafted a report intended to guide its members. The resulting *Report of the AAMD Task Force on the Spoliation of Art during the Nazi/World War II Era (1933-1945)* was issued in June 1998.

The American Association of Museums (AAM) also began formally considering the issue in 1998. In April 1999, the AAM Board of Directors asked a working group to draft guidelines to assist museums in addressing the problems of objects that were unlawfully appropriated during the Nazi era without subsequent restitution. The *AAM Guidelines Concerning the Unlawful Appropriation of Objects during the Nazi Era* were presented to the AAM Board of Directors for approval in November 1999, and were issued to the field later that month. The AAMD and AAM documents both instructed museums to

make public information about objects with incomplete or uncertain Nazi-era provenance, and museums began to undertake the necessary research.

By mid-2000 many museums were actively implementing the guidelines. Researchers were gaining expertise in Nazi-era provenance research, and several museums posted information on their Web sites about objects in their collections which they considered to have incomplete or uncertain provenance. From the differing scope of materials posted on Web sites, it became clear that interpretation of what constituted incomplete or uncertain provenance varied from one museum to another. In addition, as provenance researchers gained experience examining works in their collections, they learned that the appearance of a suspicious name in a provenance or gaps in ownership histories were not always reliable indicators of unlawful appropriation without subsequent restitution. Instances arose in which objects with incomplete or uncertain provenance were cleared of suspicion from unlawful appropriation, while some with apparently complete ownership histories turned out to be problematic.

As the museum community grappled with the issue of consistency, AAM began the process of a formal development of standards and best practices. Meanwhile, the Presidential Advisory Commission on Holocaust Assets in the United States (PCHA) likewise concluded that a standard for disclosure of information would be beneficial to claimants seeking the return of unlawfully appropriated property that may be in the custody of museums. The commission began weighing the acceptance within the museum community of a standard it termed “full disclosure”—making public information on all objects in the collection that could have changed hands in Europe during the Nazi era, not solely those with incomplete or uncertain provenance.

In October 2000, AAM and AAMD joined with PCHA as it wrote its final report to better define a standard for disclosure of collections information. In January 2001, PCHA issued its final report, which incorporated the agreed-upon standard for disclosure and recommended the creation of a searchable central registry of information provided by museums in accordance with the new standard. The body of objects included in this standard—referred to in AAM documents as covered objects—were those acquired by a museum after 1932, created before 1946, that underwent a change of ownership between 1932 and 1946, and that either were or might reasonably be thought to have been in continental Europe between 1932 and 1946.

In summary, the agreement changed the standards from those suggested in AAM’s and AAMD’s original guidance documents (that museums make public information about objects whose Nazi-era provenance is incomplete or uncertain) to a recommendation that information about all objects transferred in continental Europe between 1932 and 1946 be made public, regardless of completeness of provenance. AAM and AAMD agreed to support this recommendation, and both AAM’s guidelines and AAMD’s task force report were amended in April 2001 to reflect this new standard.

Prior to the release of the commission’s report, AAM formed a task force to address the mechanics of making information public. The result of its work is *AAM Recommended*

Procedures for Providing Information to the Public about Objects Transferred in Europe during the Nazi Era, adopted in May 2001. This important document includes two vital recommendations for making such information public: (1) that museums strive to make public a set of 20 pieces of information most useful in aiding the discovery of objects that were unlawfully appropriated, and (2) that a single, central, searchable gateway to this information be developed.

AAM accepted the responsibility of developing this Internet-accessible, searchable registry. The result is the Nazi-Era Provenance Internet Portal. Development and management of the Portal is made possible through generous support from the Institute of Museum and Library Services, Commission for Art Recovery of the World Jewish Congress, Samuel H. Kress Foundation, The Getty Grant Program, the Conference on Jewish Material Claims Against Germany – Rabbi Israel Miller Fund for Shoah Research, Documentation, and Education, and the Max and Victoria Dreyfus Foundation.

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Edward H. Able, Jr.

President & CEO, American Association of Museums

Edward H. Able, Jr. has been the President and CEO of the American Association of Museums (AAM) since July 1986.

Before his appointment to AAM, Mr. Able served for nine years as Chief Staff Executive of the American Society of Landscape Architects and the Landscape Architecture Foundation. He also served for four and a half years as the Assistant Director of the Resident Associate program at the Smithsonian Institution, and worked as a Washington-based management consultant and as a staff aide to US Senators Mike Mansfield and Richard B. Russell.

He is an author and lecturer on the management of nonprofit organizations, and senior leader in the arts and humanities community. He has served on the Boards of Directors of the American Society of Association Executives, Greater Washington Society of Association Executives, National Center for Non-Profit Enterprise, Travel Industry Association of America, and is currently on the boards of the National Humanities Alliance and Independent Sector, a nonprofit coalition of more than 700 national nonprofit organizations, foundations, and corporate philanthropy. He is also the immediate past chair of the Board of BoardSource (formerly the National Center for Non-Profit Boards) where he served on the board for thirteen years.

Able is a Fellow of American Society of Association Executives and in 1990 received the Key Award, its highest and most distinguished award for service, dedication, and contributions to the field of association management. He has been named to annual The NPT Power and Influence Top 50 in the non-profit sector by *The NonProfit Times* every year since 1997. He earned an MBA from George Washington University and holds a B.A. in chemistry from Emory University in Atlanta.